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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MACKEY, JAMES P

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/058,538

Applicant(s)

GIRARD ET AL.

Examiner

James Mackey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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1. The disclosure is objected to because of the following informalities: the application number of the copending application cited at the beginning of the specification should be added.

Appropriate correction is required.

2. Claims 14 and 15 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 14 and 15 only recite limitations regarding the beads (diameter or bead shape) of the tire being molded, such relates only to the contents of the claimed apparatus during its intended operation and therefore do not structurally distinguish the claimed apparatus, and thus fail to further limit the subject matter of the apparatus claims. Note that intended use has been continuously held not to be germane to determining the patentability of the apparatus, *In re Finsterwalder*, 168 USPQ 530; the manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235; purpose to which apparatus is to be put and expression relating apparatus to contents thereof during intended operation are not significant in determining patentability of an apparatus claim, *Ex parte Thibault*, 164 USPQ 666; a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations, *Ex parte Masham*, 2 USPQ2d 1647.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, the recitation "is functionally the same as" is of indefinite scope, since the metes and bounds of the structure which makes up the claimed apparatus cannot be ascertained.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-12 and 15-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Allitt (U.S. Patent 4,154,790).

Allitt clearly teaches a tire mold including first and second sidewall plates 10, 11, a bladder 13, and first and second bead molding rings 18, 19, each bead molding ring comprising first and second circumferentially alternated segments, the first segments 21 being wedge shaped and having circumferentially lateral faces 23 that converge towards a radially outward-facing bead molding surface 25 of the ring, the first segment lateral faces being planar and oriented in an axial direction, and the second segments 20 having lateral faces 22 that are complementary to the first segment lateral faces; axially moving cam ring means 29, 30, 31, 32, attached to a bladder clamp ring 26, 28, for radially expanding the bead molding ring from a first outside diameter (smaller than the inside diameter of a green tire bead, see col. 2, lines 1-3) to a second outside diameter to form a circumferentially continuous radially outward-facing molding surface, by engagement with frustoconical cam surfaces 33 of the first and second segments; radially

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aligned guiding rod means 36, 37 slidably positioned within guide holes in each of the first and second segments for movably connecting the mold with each of the first and second segments to restrict the first and second segments to radial movement only, the heads of the guiding rods functioning as stop bolts; and spring means 60, 61 located in holes bored in the first and second segments for pressing radially inwardly on the first and second segments. Allitt also clearly teaches a method for molding a green tire, comprising the steps of loading the tire into a mold comprising at least one retractable bead molding ring 18, 19 assembled together with a sidewall molding plate 10, 11, the bead molding ring comprising circumferentially alternated first and second segments 21, 20 such that radial expansion of the first segments causes radial expansion of the second segments; passing an unmolded bead of the tire over the retractable bead molding ring while the ring is retracted to an outside diameter that is less than or equal to the inside diameter of the unmolded bead (col. 2, lines 1-3); expanding the retractable bead molding ring to engage the unmolded bead by moving only in a radially outward direction (col. 3, lines 8-11, 23-28 and 52-66; col. 4, lines 15-20), using axial movement of a portion of the mold 29, 30; and expanding a bladder 13 inside the tire to draw the tire beads into engagement with one of the bead molding rings (col. 4, lines 9-20).

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Iverson (U.S. Patent 1,989,363).

Iverson teaches a bead molding ring 23 comprising a plurality of first and second segments which are circumferentially alternated (see especially Fig. 3), the first segments 23a being wedge shaped, having circumferentially lateral faces that converge towards a radially outward-facing bead molding surface of the ring, the first segment lateral faces being planar and

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oriented in an axial direction, the second segments 23b having lateral faces that are complementary to the first segment lateral faces; cam ring means 25 for radially expanding the bead molding ring from a first outside diameter to a second outside diameter to form a circumferentially continuous radially outward-facing molding surface by engagement with frustoconical cam surfaces on the radially inner portion of the first and second segments; radially aligned guiding means 28, 30 (Figs. 6-9) movably connecting the mold with each of the first and second segments to restrict the first and second segments to radial movement only; and spring means 32 (Figs. 8-9) pressing radially inwardly on the first and second segments.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allitt (U.S. Patent 4,154,790).

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Allitt discloses the tire mold substantially as claimed, as described above, except for the second bead molding ring being a non-segmented, continuous ring. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Allitt by providing the upper bead molding ring as a conventional non-segmented continuous bead molding ring, since the upper bead molding ring, attached to the upper sidewall plate, does not obstruct the green tire during loading and therefore is not required to be retractable for green tire loading. Note that omission of an element and its function where not needed has been held to be within the general level of ordinary skill in the art; see *Ex parte Rainu*, 168 USPQ 375, and *In re Kuhle*, 188 USPQ 7. With regard to the bead diameters of the tire being molded, such relate only to the contents of the claimed apparatus during its intended operation and therefore do not structurally distinguish the claimed apparatus; the apparatus of Allitt is clearly capable of molding such a tire, dependent only on the intended use of the claimed apparatus. Note that intended use has been continuously held not to be germane to determining the patentability of the apparatus, *In re Finsterwalder*, 168 USPQ 530; the manner or method in which a machine is to be utilized is not germane to the issue of patentability of the machine itself, *In re Casey*, 152 USPQ 235; purpose to which apparatus is to be put and expression relating apparatus to contents thereof during intended operation are not significant in determining patentability of an apparatus claim, *Ex parte Thibault*, 164 USPQ 666; a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations, *Ex parte Masham*, 2 USPQ2d 1647.


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11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 703-308-1195. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
James Mackey  
Primary Examiner  
Art Unit 1722  
9/25/03

jpm  
September 25, 2003